

Notice of Allowability

Application No.	Applicant(s)
10/614,514	AMANO ET AL.
Examiner	Art Unit
Carl H. Layno	3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to Papers filed on January 26, 2004.
2. The allowed claim(s) is/are 1-54.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____.
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. Applicant's formal drawings were received by the Office on January 26, 2004 and have been approved by the Examiner.

Allowable Subject Matter

3. Claims 1-54 are allowed.

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance:

Independent claims 1, 17, 28, and 44 describe details of an exercise load intensity evaluation device. Specifically, claim 1 recites the unique combination of a non-invasive “ejection duration measurement section” and an “ejection duration change detection section” for sensing changes in ejection duration. Of the references of the prior art, only the Koning et al (US 4,730,619) patent describes a device having these features (Abstract, lines 19-21). Unfortunately, this device is for use with an implantable pacemaker, not a “non-invasive” device, as claimed by the applicant. Other references, such as Oka et al (US 5,772,601), describe non-invasive devices

capable of sensing ejection durations but not changes in these durations. Likewise, the Examiner could not find the combination of an “ejection duration measurement section”, a “storage section” for storing correlation data, and an “exercise load intensity detection section”, as recited in applicant’s claim 17, or a device having similar details, but alternatively reciting a “diastolic time measurement section”, as recited in claim 44. Claim 28 recites a non-invasive exercise load intensity evaluation device comprising the combination of a “diastolic time measurement section” and a “diastolic time change detection section”. Again, the Examiner was unable to find the change detection section of this combination. In view of the shortcomings of the prior art, the Examiner deems these claims and their depending claims to be allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Carl H. Layno

CARL LAYNO
PRIMARY EXAMINER

CHL
7/28/2006